

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

2004 OCT 29 P 4: 20

UNITED STATES OF AMERICA

v.

RICHARD J. GEORGE
Defendant

U.S. DISTRICT COURT
DISTRICT OF MASS.

CRIM. NO. 95-10355-RCL

PETITION FOR WRIT OF ERROR CORAM NOBIS

Now comes plaintiff Richard George and, pursuant to 28 U.S.C. § 1651, respectfully petitions the court for a writ of error coram nobis. As reason therefore, petitioner says that his conviction in the above-entitled matter rested on legal and factual errors which are fundamental to the validity of the judgment; that that he continues to suffer collateral consequences of his guilty plea and conviction; and that he has not sought relief sooner due to the unsettled nature of the law concerning "honest services fraud" and the recent suspension of his state pension benefits as a result of the conviction, contrary to his assumptions and understanding at the time of his guilty plea. Petitioner has completed his committed sentence of 20 months, his supervised probation of 2 years, his 200 hours community service, and has paid the \$10,000 fine and mandatory assessment imposed, and may not seek post conviction relief under 18 U.S.C. § 2255, making coram nobis the appropriate remedy to vacate his conviction.

Petition incorporates herein the Affidavit of Richard J. George in Support of Petition for Writ of Error Coram Nobis, and the Memorandum of Points and Authorities Supporting the Petition of Richard J. George for Writ of Error Coram Nobis.

The conviction imposed following petitioner's guilty plea to a one count Information charging a conspiracy to commit wire fraud in violation of 18 U.S.C. § 371, inflicts collateral consequences upon him which he specifically endeavored to avoid prior to his plea. Those consequences, the suspension of his state pension by the State Board of Retirement, could not have been foreseen at the time of his plea. In fact, he continued to collect his retirement benefits during his incarceration, while on supervised release, and up to January 1, 2003, when his benefits were suspended as a result of this conviction.

Petitioner's guilty plea suffered from fundamental defects because the government conceded that it could not prove that the defendant knew that the blank search warrants in question would be used to commit home invasions; and the government further conceded that, absent petitioner's guilty plea, he could not be prosecuted. These shortcomings negated the essential elements of intent and knowledge that constitute the crime of conspiracy.

Petitioner has served his sentence and paid his fine. He is now suffering significant unanticipated collateral financial consequences as a result of his conviction. Because of the errors in the plea proceedings which are fundamental to the validity of the judgment of conviction, petitioner respectfully requests that the court issue the writ.

Petitioner respectfully requests that he be granted a hearing on this petition.

Dated: October 29, 2004

Respectfully submitted,

RICHARD J. GEORGE

By his attorney,



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